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October 2, 2023

VIA EMAIL ONLY

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Re: *Kalief Williams v. The Russo's Payroll Group, Inc. et al*, 21-cv-02922-EK-CLP

Counsel:

I am writing to schedule a meet and confer in light of multiple continued deficiencies in your discovery responses and obligations. You have not complied with Judge Pollak's June 7, 2023 Order and you have not advanced discovery in this case since our status conference early this summer.

Violation of Judge Pollak's June 7, 2023 Order on Written Discovery

In her Order,¹ Judge Pollak required that the parties exchange document requests and interrogatories by July 7, 2023. These discovery deadlines were again memorialized on June 19, 2023 in the Case Management Plan Discovery Schedule signed by you and filed on ECF at Docket No. 44. Plaintiff served our document requests and interrogatories on July 7, 2023 but Defendants did not. The Judge's Order also indicated that responses to discovery demands were due on August 7, 2023. Defendants did not produce responses on that date. On September 12, 2023 I emailed you that your discovery responses were a month overdue. You have still neither responded to that email nor produced any responses.

¹ Though the Order mistakenly references the wrong names for counsel present, Mr. Kataev and I corresponded about how the dates were nevertheless accurate and consistent with what was discussed at the status conference with Judge Pollak.

Violation of Judge Pollak's June 7, 2023 Order on Depositions

The Judge's Order ruled that depositions should proceed. In July 2023, Plaintiff noticed the deposition of Jaclyn Ceparano for September 15, 2023. However, you failed to produce Ceparano on that date and did not inform Plaintiff's counsel if you do not have control over her. On September 12, 2023, the week that the deposition was scheduled, I emailed you to confirm the deposition, but you did not respond. I emailed again the next day, to avoid any penalty by the court reporter, and you responded by cancelling the deposition since you were "a bit jammed up with motions, OSCs and other issues that recently popped up." On September 20, I offered alternative dates in October for depositions. However, you still have not responded to this email nor confirmed deposition dates for Jaclyn Ceparano and Joanna Russo.

Violation of Prior Deadlines

These are not the first instances where you have ignored the Court's Orders regarding deadlines. Last summer the Court ordered exchange of initial disclosures by August 1, 2022. Not only were Defendants initial disclosures not produced on that date, after a reminder by our office and your promise to submit them by August 8, they were still not produced until days later, in contravention of the Order. In a subsequent instance, after Judge Komitee denied Defendant's Motion to Dismiss on April 21, 2023, though an answer was due within 14 days pursuant to FRCP 12(a)(4)(A), you yet again did not comply until reminded, nearly two months later.

Stipulation and Confidentiality Order

On September 12, 2023, I sent you a draft Stipulation and Confidentiality Order for your execution. You have neither responded nor provided an executed copy of the same.

Conclusion

In spite of multiple reminders and our efforts to move forward this litigation, you have not responded in good faith or in a timely fashion to Court Orders, discovery demands, scheduled depositions and draft documents. Our requests have been memorialized and your non-compliance will be used to seek costs and any other available sanctions, as well as preclusion and waiver of your right to discovery since you have not timely served demands. Please advise as to your availability this Wednesday or Thursday afternoon to meet and confer regarding these deficiencies.

Sincerely,



Rita A. Sethi